
STATUTORY INSTRUMENTS

2024 No. 509

The Merchant Shipping (Anti-Fouling Systems) Regulations 2024

PART 3

Surveys and certification

AFS-Certificates: ships of 400 gross tonnage and above

- 7.—(1) Subject to paragraph (2), this regulation applies to a ship which is—
- (a) of 400 gross tonnage and above; and
 - (b) engaged on an international voyage.
- (2) This regulation does not apply to a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit.
- (3) A ship to which this regulation applies must be subjected to—
- (a) an initial survey—
 - (i) before the ship is put into service; or
 - (ii) when the ship is for the first time in a dry-dock for the application of anti-fouling systems; and
 - (b) a survey when the anti-fouling systems are changed or replaced,
- to ensure that the ship's anti-fouling system complies with regulation 6 (prohibitions and requirements for ships).
- (4) An initial survey under paragraph (3)(a) or a survey under paragraph (3)(b) must be carried out in accordance with Annex 4 to the Convention, having regard to the guidelines for survey and certification of anti-fouling systems on ships contained in the Annex to the International Maritime Organization Resolution MEPC.358(78)(1).
- (5) Subject to payment of the prescribed fee for a survey and on being notified that the surveyor—
- (a) has carried out an initial survey under paragraph (3)(a) or a survey under paragraph (3)(b); and
 - (b) is satisfied at the date of the survey that the ship complies with each requirement of regulation 6 applicable to it,
- a Certifying Authority must issue or endorse an AFS-Certificate in respect of that ship.
- (6) A ship must not proceed on any voyage or, if it is already on a voyage, continue on that voyage, unless there is in relation to the ship—
- (a) an AFS-Certificate issued or endorsed under paragraph (5); or

(1) MEPC.358(78) was adopted by the International Maritime Organization on 10th June 2022 and is available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign, Commonwealth and Development Office treaties database (<https://treaties.fcdo.gov.uk/responsive/app/consolidatedSearch/>).

- (b) an AFS-Certificate issued prior to the coming into force of these Regulations, as required under regulation 5 of the Merchant Shipping (Anti-Fouling Systems) Regulations 2009(2), and which is still in force.

(7) In this regulation—

“Certifying Authority” has the meaning given to it in regulation 4 of the Merchant Shipping (Survey and Certification) Regulations 2015(3) (certifying authorities);

“prescribed fee” means the fee prescribed by the Secretary of State under section 302 of the Merchant Shipping Act 1995 (fees)(4);

“surveyor” means a surveyor appointed by a Certifying Authority, and “survey” means a survey carried out by a surveyor.

AFS-Declarations: ships of less than 400 gross tonnage

8.—(1) Subject to paragraphs (2) and (3), this regulation applies to a ship which is—

- (a) less than 400 gross tonnage;
- (b) 24 metres or more in length; and
- (c) engaged on an international voyage.

(2) This regulation does not apply to—

- (a) a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit;
- (b) a ship of less than 400 gross tonnage engaged on international voyages which has been exempted from the requirements of paragraph (3) by the Secretary of State.

(3) A ship must not proceed on any voyage, or if it is already on a voyage continue on that voyage, unless there is in force an AFS-Declaration, and that AFS-Declaration—

- (a) is accompanied by appropriate documentation; or
- (b) contains an appropriate endorsement.

(4) In this regulation—

“AFS-Declaration” includes an AFS-Declaration drawn up prior to the coming into force of these Regulations, as required under regulation 6 of the Merchant Shipping (Anti-Fouling Systems) Regulations 2009, and which is still in force;

“appropriate documentation” means a paint receipt, contractor’s invoice or other evidence of the type of anti-fouling system used on the ship;

“length” has the same meaning as in regulation 2(1) of the Merchant Shipping (Load Line) Regulations 1998(5).

Cancellation of a certificate

9.—(1) The Secretary of State may cancel an AFS-Certificate issued in respect of a United Kingdom ship where there is reason to believe that—

- (a) the certificate was issued on the basis of false or erroneous information; or
- (b) since any survey required by these Regulations, any coating referred to in regulation 6(2) (b) or 6(4)(b) (coatings forming a barrier to prevent an organotin compound which acts

(2) [S.I. 2009/2796](#), amended by [S.I. 2011/3056](#), [2014/3306](#) and [2019/311](#). This instrument is also revoked by these Regulations.

(3) [S.I. 2015/508](#). There are amending instruments but none is relevant.

(4) The prescribed fee is found in the Merchant Shipping (Fees) Regulations 2018 ([S.I. 2018/1104](#)).

(5) [S.I. 1998/2241](#), amended by [S.I. 2000/1335](#); there are other amending instruments but none is relevant.

as a biocide, or cybutryne, leaching from underlying non-compliant anti-fouling systems) and borne by the ship has sustained damage or is otherwise deficient.

- (2) The Secretary of State may require an AFS-Certificate that has been—
- (a) cancelled under paragraph (1); or
 - (b) issued in respect of a United Kingdom ship but which has ceased to be valid, to be surrendered.
- (3) No person may—
- (a) intentionally alter a certificate;
 - (b) intentionally make a false certificate;
 - (c) knowingly or recklessly provide false information in connection with any survey required by these Regulations;
 - (d) with intent to deceive, use or lend a certificate or permit a certificate to be used by another person;
 - (e) fail to surrender a certificate when required to do so pursuant to paragraph (2); or
 - (f) in Scotland, forge a certificate.

Availability of certificates and other documents

10.—(1) An AFS-Certificate must be readily available for examination at all times on board every ship to which regulation 7 (AFS-Certificates: ships of 400 gross tonnage and above) applies.

(2) An AFS-Declaration and the appropriate documentation or endorsement referred to in regulation 8(3) (AFS-Declarations: ships of less than 400 gross tonnage) must be readily available for examination at all times on board every ship to which that regulation applies.

Arbitration

11.—(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out for the purposes of regulation 7 (AFS-Certificates: ships of 400 gross tonnage and above), the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

- (a) stating that there is a dispute between them; and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraph (3), an arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.

(3) In default of agreement between the applicant and the responsible person, the arbitrator is such person as may be appointed by the President or Vice President of the Chartered Institute of Arbitrators following a request made by—

- (a) a party, after giving written notice to the other party; or
- (b) the parties jointly,

but this paragraph does not apply in relation to Scotland.

- (4) No person is to be an arbitrator under this regulation unless that person is—
- (a) a person who holds a certificate of competency as—
 - (i) a Class 1 Deck Officer; or
 - (ii) a Class 1 Marine Engineer Officer;

- (b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);
 - (c) a naval architect;
 - (d) a qualified person;
 - (e) a person with experience of—
 - (i) shipping matters;
 - (ii) the fishing industry; or
 - (iii) activities carried on in ports; or
 - (f) a member of the Chartered Institute of Arbitrators.
- (5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the Merchant Shipping Act 1995.
- (6) In the application of this regulation to Scotland—
- (a) any reference to an arbitrator is to be construed as a reference to an arbiter, and
 - (b) the reference in paragraph (2) to appointment by agreement between the parties is to be construed as a reference to appointment by such agreement or, in default of agreement, appointment by a sheriff.
- (7) The rules for arbitration set out in Merchant Shipping Notice No. M.1613(6) apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.
- (8) In this regulation—
- “applicant” means a person who makes an application for a survey required by these Regulations;
- “Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;
- “qualified person” means—
- (a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(7);
 - (b) a person who is an advocate or solicitor in Scotland of at least 7 years’ standing; or
 - (c) a person who is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland of at least 7 years’ standing;
- “responsible person” means the Certifying Authority responsible under regulation 7(5) (surveys and certification) for the issue or endorsement of the AFS-Certificate.

(6) Merchant Shipping Notice 1613 No. M.1613 is available on <https://www.gov.uk/government/collections/merchant-shipping-notice-1613> and in hard copy from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email infoline@mca.gov.uk).

(7) 2007 c. 15. There are amendments to the Act but none is relevant.